

would be unnecessary, and improper, but it does not therefore follow, that under such circumstances, upon an application by her, the husband would not be made to supply her with money to fee counsel, and defray the expense of the suit.

The application here, however, is not by her, but by her counsel, in his own name. No precedent can be found for such a proceeding, so far as I am aware, and I am not disposed to make one, unless the necessity for it was extremely urgent.

An application by Mrs. Tayman, the complainant, asking for means to carry on the suit, and to compensate her counsel for his professional services, could not well be refused, and, perhaps, the fund in court, under the circumstances, would be most convenient and proper to use for the purpose. A reasonable proportion of that fund might be so applied, reserving the residue for such further order as might be passed in the further progress of the cause. I think, however, the present application cannot be granted, and refuse it.

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[On the 17th of January, 1851, the complainant filed her petition to the same purport as that filed by her solicitor, and on the same day the Chancellor passed thereon the following order :]

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The within petition is submitted by agreement of parties, under the order of the 17th of January last, and agreeably to the views expressed in the opinion of the court of the 16th of January last, it is ordered, that out of the sum deposited in court, under the order of the 16th of November, 1850, there be paid to the petitioner the sum of two hundred dollars to enable her to carry on the suit, and this court hereby reserves the power to pass such other or further order in the premises, as the exigencies of the case may hereafter, and from time to time, require.

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[The purport and effect of the testimony taken under the commission, is sufficiently stated in the following opinion, delivered at the hearing of the cause upon its merits, on the 22d of March, 1851.]